

REMARKS

This Amendment is intended to be a full and complete response to the Office Action dated December 30, 2009. In the Office Action, the Examiner states that Claims 1-20 are pending, of which claims 1-5, 10-14 and 16-19 are rejected and claims 6-9, 15 and 20 are objected to.

The Examiner's indication of the allowability of claims 6-9, 15 and 20 is duly noted and appreciated. However, it is believed that rewriting the allowable subject matter of claims 6-9, 15 and 20 in independent form is not necessary as they depend on base claim 1, which has been amended and is earnestly believed to be allowable over the prior art.

By this Amendment, claims 1, 4-6, 8-10, 12, 14, 15 and 18-20 are amended to correct minor grammatical errors and clarify the relationship of the elements. No new subject matter has been added to the claims. In view of both the amendments presented above and the following discussion, it is submitted that all of these claims are now in allowable form.

REJECTIONS

I. The rejections under 35 U.S.C. §102(b) are obviated

Claims 1-5, 10-14 and 16-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Netherland Patent No. NL 6,616,039 to Mueller and by United Kingdom Patent No. GB 1450735 to Hansen. The rejections are respectfully traversed.

As a preliminary matter, we believe that it would be helpful to review the appropriate standard under 35 U.S.C. § 102 for analyzing the features of a claim with respect to the prior art. It is well settled that “unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102.” (Net MoneyIn Inc. v. Verisign Inc., 545 F.3d 1359 (Fed. Cir. 2008)) (emphasis added). That is, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim” (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730

F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The cited references fail to disclose each and every element of the claimed invention, as arranged or combined in the claim.

Claimed Invention:

A device for gripping a flexible container (17) filled with fluid comprising: a chamber (15) that is open on one side (18) having a peripheral wall (2) that encloses the open side (18), a container support (8) that extends in the peripheral direction inside the peripheral wall (2), an orifice (14) for connecting a vacuum source to the chamber (15), wherein the open side (18) is configured for receiving the container (17), such that a vacuum created by the vacuum source is formed between the chamber (15) and the container (17) to draw the container (17) into contact around the container support (8) transversely to the peripheral direction, and wherein the orifice (14) is positioned outside the container support (8) and extends in the peripheral direction. (Emphasis added).

A. Netherlands patent no. NL 6616039 (hereinafter “the NL ‘039 patent”)

As is apparent from the drawings of the NL ‘039 patent, the structure and the mechanical relationship of its elements are completely different than that of the device defined by the claims of the present invention. More specifically, the NL ‘039 patent does not disclose the spatial relation of the orifice and the container support as defined by the limitations of independent claim 1.

The NL ‘039 patent discloses a device which is box-shaped and open on one side. On the inside at the edge of the open side there is a thickening around which the wall of a bag can curl to some extent when the wall bulges out into the box shape under the influence of a vacuum (see present specification, page 1, line 11 to page 2, line 2). Nowhere in the NL ‘039 patent is there any disclosure that the orifice through which the vacuum is drawn is positioned outside the container support. Furthermore, the orifice does not extend in the peripheral direction. Rather, the NL ‘039 patent discloses that the edge 10 (FIG. 1) or tube 10' (FIG. 3) is within the enclosure 2 when a vacuum is generated.

This relation of the orifice and the container support in the present invention provides the device with a superior gripping action on a bag being lifted by the device. By contrast, the traditional device disclosed in the NL ‘039 patent has an inferior gripping action, which primarily depends on friction.

The present invention solves the poor gripping action by positioning the orifice outside the container support. The gripping action is no longer merely dependent on friction due to the fact that the bag can be folded over or around the container support.

Accordingly, the NL '039 patent does not disclose, teach or even suggest the claimed feature of the spatial relation of “the orifice (14) is positioned outside the container support (8) and extends in the peripheral direction”. Therefore, the NL '039 patent fails to disclose each and every element of the claimed invention, as arranged or combined in the claim.

As such, it is submitted that independent claim 1 is not anticipated and fully satisfies the requirements under 35 U.S.C. § 102 and is patentable thereunder. Furthermore, claims 2-20 depend from independent claim 1 and recite additional inventive features. As such, and for at least the same reasons discussed above, it is submitted that these dependent claims also fully satisfy the requirements under 35 U.S.C. § 102 and are patentable thereunder. Withdrawal of the rejection is respectfully requested.

B. United Kingdom patent no. GB 1450735 (hereinafter “the GB '735 patent”)

As is apparent from the drawings of the GB '735 patent, the structure and the mechanical relationship of its elements are completely different than that of the device defined by the claims of the present invention. More specifically, the GB '735 patent does not disclose the spatial relation of the orifice and the container support as defined by the limitations of independent claim 1.

The GB '735 patent discloses:

a plate (1) and a centrally located connection (2) for attachment to a suction pipe leading to a vacuum pump. Attached to the underside of the plate (1) is a ring (3) which externally conforms to the periphery of the plate. The outer rim of the suction opening of the suction head is formed by an outer pipe ring (5) of circular cross-section. The inside wall of the outer rim, formed by the pipe ring (5) has a liner forming contact face (6) inwardly inclined. In the interior surrounded by the pipe ring (5) is a plate (8) which on its underside carries a periphery pipe ring (9). This plate (8) is secured and held in position by adjustable fixing screws (7). The bottom of the space embraced by this inner pipe ring 9 is closed by a base plate (10) which is tangent to the lowest part of the cross-section of the pipe ring. The screw (7) permit the levels of the plates (8) and the pipe ring (9) as well as the bottom plate (10) to be adjusted relative to the level of the plate (1) of the suction head. The suction chamber (11) of the suction head is the space that

remains between the two pipe rings (5) and (9). (see GB `735 patent, page 2, lines 24-83, FIGS. 1-4, emphasis added).

Nowhere in the GB `735 patent is there any disclosure that the orifice is to be positioned outside the container support. Furthermore, the orifice does not extend in the peripheral direction. Rather, the GB `735 patent discloses that the orifice is confined between the plates 1 and 8, which is not outside the container support ring 9. Consequently, as soon as a bag is inserted into the suction head device of the GB `735 patent, the suction orifice inevitably must be confined to the space within the inside of the container support ring 9, as the outside of said ring is shielded from the vacuum source 2 by the bag itself.

Accordingly, the GB `735 patent does not disclose, teach or even suggest the claimed feature of the spatial relation of “the orifice (14) is positioned outside the container support (8) and extends in the peripheral direction”. Therefore, the GB `735 patent fails to disclose each and every element of the claimed invention, as arranged or combined in the claim.

As such, it is submitted that independent claim 1 is not anticipated and fully satisfies the requirements under 35 U.S.C. § 102 and is patentable thereunder. Furthermore, claims 2-20 depend from independent claim 1 and recite additional inventive features. As such, and for at least the same reasons discussed above, it is submitted that these dependent claims also fully satisfy the requirements under 35 U.S.C. § 102 and are patentable thereunder. Withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the amendments and arguments discussed above, it is submitted that all of the claims are in allowable form and that this Amendment responds to all of the issues raised in the Office Action. Thus, it is submitted that these claims are in condition for allowance. Accordingly, both favorable reconsideration of this application and prompt issuance of the Notice of Allowance are earnestly solicited.

Should the Examiner find that there are any unresolved issues adversely affecting any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg at (212) 885-9223 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Extension of Time

A Petition for a two-month extension of time and this firm's check for the extension fee are also being filed with this Amendment.

The Commissioner is hereby authorized to charge any additional fees, or to credit any overpayment, due by reason of this Amendment to Deposit Account No. 01-0035.

All correspondence should continue to be directed to the address below.

Respectfully submitted,
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